

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5641 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE A.N.DIVECHA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? Yes

2. To be referred to the Reporter or not? No

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3. Whether Their Lordships wish to see the fair copy of the judgement? No

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? No

5. Whether it is to be circulated to the Civil Judge? No

MANGUBEN KOHYAJI

Versus

COMPETENT AUTHORITY & ADDL. COLLECTOR

Appearance:

Sshri M.C.Bhatt, Advocate, for the Petitioners.

Shri T.H.Sompura, Assistant Government Pleader, for the Respondents.

CORAM : MR.JUSTICE A.N.DIVECHA

Date of decision: 12/09/96

ORAL JUDGEMENT

The order passed by the Competent Authority at Ahmedabad (respondent No.1 herein) on 25th July 1996 refusing to accept the application for permission under Section 21 (1) of the Urban Land (Ceiling and Regulation)

Act, 1976 (the Act for brief) is under challenge in this petition under Article 226 of the Constitution of India.

2. It is not necessary to set out in detail the facts giving rise to this petition. It may be sufficient to mention that the petitioners were granted exemption under Section 20 (1) of the Act with respect to one parcel of land bearing survey No.41 admeasuring 20234 square metres situated at Kotarpur within the urban agglomeration of Ahmedabad (the disputed land for convenience) by one order passed by and on behalf of the State Government on 3rd March 1980. Its copy is at Annexure-A to this petition. That exemption was withdrawn by and on behalf of the State Government by another order passed on 22nd September 1988. Its copy is at Annexure-B to this petition. Thereupon, the petitioners applied for permission under Section 21 (1) of the Act on 8th November 1988. Its copy is at Annexure-C to this petition. By his order passed on 25th July 1996, respondent No.2 refused to accept that application. Its copy is at Annexure-D to this petition. The aggrieved petitioners have thereupon approached this court by means of this petition under Article 226 of the Constitution of India for questioning the correctness of the aforesaid action of respondent No.2 as reflected in the aforesaid order at Annexure-D to this petition.

3. The relevant provisions contained in Rule 11 of the Urban Land (Ceiling and Regulation) Rules, 1976 (the Rules for brief) framed under the Act inter alia provide for the limitation of 1139 days from the date of withdrawal of exemption granted under Section 20 (1) of the Act. I am supported in my view by the ruling of this Court in the case of VIJAYSINGH D. PARMAR v. COMPETENT AUTHORITY reported in 1996 (2) 37 (2) Gujarat Law Reporter at page 522. It has clearly been held therein that Rule 11 of the Rules requires that an application under Section 21 (1) of the Act should be made within 1139 days from the date the exemption under Section 20 ceased.

4. Sitting as a single Judge, the aforesaid ruling of this court is binding to me. Even otherwise, I am in respectful agreement therewith. In fact, I have taken the same view in the case of RAVJIBHAI KASHIBHAI PATEL v. URBAN LAND TRIBUNAL reported in 1996 (2) 37 (2) Gujarat Law Reporter at page 815. It is on all fours applicable in the present case. As pointed hereinabove, the exemption granted by the order at Annexure-A to this petition qua the disputed land came to be withdrawn by the order passed on 22nd September 1988 at Annexure-B to

this petition. Within 45 days therefrom the petitioners applied for the necessary permission under Section 21 (1) of the Act. It was very much within the time-limit prescribed by Rule 11 of the Rules. Respondent No.1 was therefore not justified in refusing to accept the application as reflected in the order at Annexure-D to this petition. That action on his part cannot be sustained in law.

5. Since I have taken this view, it is not necessary to decide the validity of one Government Resolution of 11th July 1989, a copy of which is at Annexure-e to this petition. Learned Advocate Shri Bhatt for the petitioners has also not pressed that point at this stage.

6. In the result, this petition is accepted. The order passed by the Competent Authority at Ahmedabad (respondent No.1 herein) on 25th July 1996 at Annexure-D to this petition is quashed and set aside. Respondent No.1 is directed to accept the application for permission under Section 21 (1) of the Act as made by the petitioners and to decide its fate according to law as expeditiously as possible. Rule is accordingly made absolute to the aforesaid extent with no order as to costs.

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